

## **REMARKS**

Reconsideration of the present application, as amended, is respectfully requested.

### **I. STATUS OF THE CLAIMS**

Claims 3-7, 13, 14 and 22-35 are pending in this application. Claims 13 and 14 have been allowed. Claims 3, 22, 34 and 35 have been amended to more particularly point out and distinctly claim that which Applicants regard as their invention. In particular, claims 3, 22 and 35 have been amended to further clarify that the plurality of column spacers are formed on at least one of the first and the second substrate and located in a display area

Support for the above amendments may be found throughout the specification as originally filed. No new matter has been added by virtue of this amendment.

### **II. 35 U.S.C. 112, FIRST PARAGRAPH REJECTIONS**

Claims 4, 5, 23, 24, 28 and 29 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. It appears the above rejection is essentially based upon the Examiners reasoning that the present specification fails to provide an enabling disclosure with regard *to how make a display device* having the *both* the feature “contact areas of the first and second spacers are different” and the feature “a height difference between the first spacer and the second spacer is in a range of about 0.3-0.6 microns (claims 4, 24), a height of the second spacer is lower than the first spacer (claims 5, 23), or wherein the spacers further comprise a third spacer, a second spacer has a height lower than the first spacer, and the third spacer having a height equal to (claim 29) or lower than the second spacer (claim 28)”.

Applicants disagree with the Examiner that claims 4, 5, 23, 24, 28 and 29 fail to comply with the enablement requirement of 35 U.S.C. 112, first paragraph for at least the reasons set forth below.

The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent application coupled with information known in the art without undue experimentation. (See MPEP 2164.01). The initial burden of establishing lack of enablement is on the Examiner. (See MPEP 2164.04)

The Examiner has failed to meet his initial burden of proving lack of enablement for claims 4, 5, 23, 24, 28 and 29 for at least the reasons set forth below. In particular, as part of the Examiner's burden, the Examiner is required to specifically identify what information is missing and why one skilled in the art could not supply the information without undue experimentation. (See MPEP 2164.04).

The Examiner has at the very least failed to set forth on the record why one skilled in the art could not supply the allegedly missing information without undue experimentation. In contrast, the only reason the Examiner appears to have given for supporting his lack of enablement rejection for claims 4, 5, 23, 24, 28 and 29 is that the specification does not specifically mention how to make a display device having the above-mentioned features with regard to heights of the spacers recited in 4, 5, 23, 24, 28 and 29. However, the above reasoning given by the Examiner alone is insufficient for supporting a lack of enablement rejection because in order for Applicants to comply with the enablement requirement of 35 U.S.C., first paragraph, they are not required to mention or describe every detail of their claimed invention.

Rather, in order to comply with the enablement requirement of 35 U.S.C., first paragraph, the specification need only describe the claimed invention in such detail so that one skilled in the art can make and use it without undue experimentation. Applicants specification sufficiently enables claims 4, 5, 23, 24, 28 and 29 because the specification clearly sets forth different embodiments which, for example, illustrate and describe how to make spacers having different contact areas and varying heights using an exposure mask 60, 70 and a photosresist 59. (See, e.g., pages, 7, 8 and page 17 of the present specification). In addition, the specification also clearly sets forth display devices having various types of spacers, including spacers having different contact areas and differing

heights. (See e.g., page 21 and Fig. 17 of the present application). Therefore, based upon (i) the knowledge of one skilled in the art in the field of display devices coupled with (ii) the applicants specific disclosure in the present application regarding how to make spacers having different contact areas and varying heights mentioned above and also display devices having various types of spacers, one skilled in the art would readily understand how to make and use a display device having spacers with all the specific features recited in claims 4, 5, 23, 24, 28 and 29 without having to perform any undue experimentation. Thus, the present specification enables claims 4, 5, 23, 24, 28 and 29.

Withdrawal of the above rejections to claims 4, 5, 23, 24, 28 and 29 is therefore requested.

### **III. OBJECTION TO THE CLAIMS**

Claim 34 has been objected to on the grounds that the phrase “the spacer” should read the “spacers” because of the plurality of column spacers recited in claim 22.

In response, claim 34 has been amended to recite “at least a portion of at least one of the spacers “ in place of “at least a portion of the spacer”.

Accordingly, it is believed based upon the above actions taken that the above objections have been overcome and thus removal of these objections to claim 34 is requested.

### **IV. 35 U.S.C. 103(a) REJECTIONS**

(i) Claims 3, 5, 22, 23, 30, 33 and 35 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. US2003/0025868 to Hiroshima et al . (“the Hiroshima patent publication).

(ii) Claims 4, 24, 28 and 29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroshima.

(iii) Claim 31 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroshima in view of U.S. Patent No. 6,870,593 to Satoh et al. (“the Satoh patent”).

(iv) Claim 34 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Hiroshima in view of U.S. Patent No. 6,433,852 to Sonoda et al. (“the Sonoda patent”).

It is submitted that Hiroshima, Satoh and Sonoda alone or in combination each fail to teach or suggest all of the features recited in claims 3, 22 and 35, as amended, for at least the reasons set forth below.

As noted above, claims 3, 22 and 35 have been amended to further clarify that the plurality of column spacers are formed on at least one of the first and the second substrate and located in a display area.

Hiroshima, Satoh and Sonoda alone or in combination each at the very least fail to teach or suggest a display device, wherein a plurality of column spacers are formed on at least one of the first and the second substrate and located in a display area, as essentially recited in claims 3, 22 and 35 as amended.

Thus, for at least the reasons set forth above, removal of the rejection to claims 3, 22 and 35 is requested. As claims 4 and 5 depend from claim 3 and claims 23, 24, 28-31, 33 and 34 depend from claim 22, withdrawal of the rejections to these dependent claims is likewise requested. Moreover, as claims 6, 7, and 32 depend from claim 3 and claims 25-27 depend from claim 22, withdrawal of the objection to these dependent claims is also requested.

**V. CONCLUSION:**

In summary, applicant respectfully submits that the instant application is in condition for allowance. Early notice to that end is earnestly solicited.

If a telephone conference would be of assistance in furthering prosecution of the subject application, applicant requests that the undersigned be contacted at the number below.

Respectfully submitted,



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